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09/894,391	06/28/2001	Michael Epstein	US 010314	6445

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EXAMINER
TRUONG, LAN DAI T

ART UNIT	PAPER NUMBER
2452	

NOTIFICATION DATE	DELIVERY MODE
03/30/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>03</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 January 2011*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *4-10* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *4-10* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on *28 June 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
       1.☐ Certified copies of the priority documents have been received.
       2.☐ Certified copies of the priority documents have been received in Application No. _____.
       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *06/28/2001*.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/31/2011 has been entered.

2. This action is response to amendment filed 01/07/2011. Claims 4-10 are pending; claims 1-3 and 11-13 are canceled; claims 4-7 are amended.

3. The applicant's arguments filed on 01/07/2011 have fully considered, but they are moot in view with new ground for rejections.

Claim rejections-35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. The phrase "significant difference" in claims 4-7 is relative phrase which renders the claim indefinite. The phrase "significant difference" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of

ordinary skill in the art would not be reasonably apprised of the scope of the invention. An

appropriate correction is required.

Claim objections

5. Claims 4-5 are objected to because of the following informalities: the claim recites

element "the unauthorized users" which lacks antecedent basis. Appropriate correction is

required.

6. Claims 4-7 are objected to because of the following informalities: there is a typo error

in the claims. The claims 4-7 would be in better format if the limitation of "wherein the

assessment of the one or more responses performed by the verifier comprises: continuously

requesting randomly selected source information from the unknown source unit a statistically

significant difference from the expected response time of a local source is detected" would be

rewrite as "wherein the assessment of the one or more responses performed by the verifier

comprises: continuously requesting randomly selected source information from the unknown

source unit <u>if/when</u> a statistically significant difference from the expected response time of a

local source is detected".

Claim rejections-35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or
composition of matter, or any new and useful improvement thereof, may obtain a patent
therefor, subject to the conditions and requirements of this title.

7. Claims 5-7 are rejected under 35 U.S.C 101 as directed to non-statutory subject matter.

<u>Regarding claims 5-6:</u>

Claims 5-6 are directed to statutory subject matter only if at least one of the claimed elements of the system is a physical part of a device.

The specification is silent as to actual definitions for claim elements (e.g. a verifier; timer) as directed to hardware components; therefore applying the broadest reasonable interpretation, 'verifier, timer' could be equally implemented as either software modules or programs (see 'American Heritage College dictionary', pages 1442, 1172), thus, claims 4-5 lack the necessary structure element; therefore claims 5-6 fail to fall within one of the four statutory categories of invention recited in 35 U.S.C. § 101 process, machine, manufacture, and composition of matter.

Because of above reasons, claims 5-6 are directed to non-statutory subject matter.

<u>Regarding claim 7:</u>

Claim 7 is directed to statutory subject matter only if at least one of the claimed elements of the system is a physical part of a device.

The specification is silent as to actual definitions for claim elements (e.g. a verifier; timer, renderer) as directed to hardware components; therefore applying the broadest reasonable interpretation, 'verifier, timer, renderer' could be equally implemented as either software modules or programs (see 'American Heritage College dictionary', pages 1442, 1172), thus, claim 7 lacks the necessary structure element; therefore claim 7 fails to fall within one of the four

statutory categories of invention recited in 35 U.S.C. § 101 process, machine, manufacture, and

composition of matter, and directed to non-statutory subject matter.

Claim rejections-35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section
> 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the
> subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill
> in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

Claims 4-7, 9-10 are rejected under 35 U.S.C 103(a) as being un-patentable over

Sheymov et al. (U.S. 7,197,563) in view of Pritchard et al. (U.S. 2002/0147930) and further

in view of Giacalone et al. (U.S. 2009/0240721)

<u>**Regarding claim 4:**</u>

Sheymov discloses the invention substantially as claimed, including a security system

comprising:

a verifier for determining an authorization to process protected material (Sheymov

discloses a monitoring center is capable to verify unauthorized access attempts: Sheymov,

column 4, lines 1-14; column 7, lines 39-67; figure 2, item 200).

a storage medium for storing data for limiting subsequent access of the unauthorized

users or notifying an external source of the unauthorized users: (a database for collecting

information on incidences hacker attacks, and used to process law enforcement to the

unauthorized attacks: Sheymov: figure 2, item 240; column 2, lines 42-47; column 1, lines 35-39).

However, Sheymov does not explicitly disclose determining authorization based on an assessment of actual response times associated with one or more responses received from an unknown second source to one or more requests issued from a first source to the unknown second source.

In analogous art, Pritchard discloses computer access requests authorized based upon stored predetermined time intervals. Authorization of access request is determined based on assessments of access request time interval against the stored predetermined time intervals; see (Pritchard, figure 3, items 308, 311, 312, 304; abstract; [0033], [0050]-[0054]).

a timer for measuring response times associated with the one or more responses to the one or more requests: (the interval timer starts calculating time intervals for the incoming password attempt by comparison with the time intervals that are predetermined and incorporated into the stored password: Pritchard, [0010]; [0033]).

storing the actual response times for limiting subsequent access of the unauthorized users: (using stored predetermined time intervals for limiting unauthorized access: Pritchard, figure 3, items 308, 311, 312, 304; abstract; [0033], [0050]-[0054]).

wherein the assessment of the one or more responses performed by the verifier comprises: continuously requesting selected source information from the unknown source unit a statistically significant difference from the expected response time of a local source is detected: (when the time interval of access request matches with stored predetermined time intervals,

access allowed: Pritchard, figure 3, items 312, 314, 316, 318, 320; abstract; [0033], [0050]-[0054]).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Pritchard's ideas access request authorized based upon assessment of its response times into Sheymov's system in order to provide a secure communication system (e.g. hacker proof protection of an online communication network) (see, Pritchard, [0008]).

However, Sheymov-Pritchard does not explicitly disclose a request for access to randomly selected source information from the unknown second source.

In analogous art, Giacalone discloses method of randomly selecting content to be played on schedule, see (Giacalone, [0059]-[0060])

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Giacalone's ideas of randomly selecting content to be played on schedule into Sheymov-Pritchard's system in order to increase conveniences for system's users (see, Giacalone, [0008]).

Regarding claim 5:

Sheymov discloses the invention substantially as claimed, including a security system comprising:

a verifier for determining an authorization to process protected material (monitoring center is capable to verify unauthorized access attempts: Sheymov, column 4, lines 1-14; column 7, lines 39-67; figure 2, item 200).

However, Sheymov does not explicitly disclose determining authorization based on an assessment of actual response times associated with one or more responses received from an unknown second source to one or more requests issued from a first source to the unknown second source.

In analogous art, Pritchard discloses computer access requests authorized based upon stored predetermined time intervals. Authorization of access request is determined based on assessments of access request time interval against the stored predetermined time intervals; see (Pritchard, figure 3, items 308, 311, 312, 304; abstract; [0033], [0050]-[0054]).

wherein the assessment of the response times forms an assessment of whether the one or more responses were communicated locally to the verifier or via a network connection: (the interval timer starts calculating time intervals for the incoming password attempt by comparison with the time intervals that are predetermined and incorporated into the stored password, and computing access authorization based upon stored time intervals associated with time interval received from access request: Pritchard, [0010]; [0033]; [0050]-[0054]).

a timer for measuring response times associated with the one or more responses to the one or more requests: (the interval timer starts calculating time intervals for the incoming password attempt by comparison with the time intervals that are predetermined and incorporated into the stored password: Pritchard, [0010]; [0033]).

continuously requesting selected source information from the unknown source unit a statistically significant difference from the expected response time of a local source is detected: (when the time interval of access request matches with stored predetermined time intervals,

access allowed: Pritchard, figure 3, items 312, 314, 316, 318, 320; abstract; [0033], [0050]-[0054]).

wherein the one or more responses are stored for limiting subsequent access of the unauthorized users or notifying an external source of the unauthorized users: (using stored predetermined time intervals for limiting unauthorized accesses: Pritchard, figure 3, items 308, 311, 312, 304; abstract; [0033], [0050]-[0054]).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Pritchard's ideas access request authorized based upon assessment of response times into Sheymov's system in order to provide a secure communication system (e.g. hacker proof protection of an online communication network) (see, Pritchard, [0008]).

However, Sheymov-Pritchard does not explicitly disclose a request for access to randomly selected source information from the unknown second source.

In analogous art, Giacalone discloses method of randomly selecting content to be played on schedule, see (Giacalone, [0059]-[0060])

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Giacalone's ideas of randomly selecting content to be played on schedule into Sheymov-Pritchard's system in order to increase conveniences for system's users (see, Giacalone, [0008]).

Regarding claim 6:

Sheymov discloses the invention substantially as claimed, including a security system comprising:

a verifier for determining an authorization to process protected material (monitoring

center is capable to verify unauthorized access attempts: Sheymov, column 4, lines 1-14; column

7, lines 39-67; figure 2, item 200).

However, Sheymov does not explicitly disclose determining authorization based on an

assessment of actual response times associated with one or more responses received from an

unknown second source to one or more requests issued from a first source to the unknown

second source.

In analogous art, Pritchard discloses computer access requests authorized based upon

stored predetermined time intervals. Authorization of access request is determined based on

assessments of access request time interval against the stored predetermined time intervals; see

(Pritchard, figure 3, items 308, 311, 312, 304; abstract; [0033], [0050]-[0054]).

a timer for measuring response times associated with the one or more responses to the

one or more requests: (the interval timer starts calculating time intervals for the incoming

password attempt by comparison with the time intervals that are predetermined and incorporated

into the stored password: Pritchard, [0010]; [0033]).

continuously requesting selected source information from the unknown source unit a

statistically significant difference from the expected response time of a local source is detected:

(when the time interval of access request matches with stored predetermined time intervals,

access allowed: Pritchard, figure 3, items 312, 314, 316, 318, 320; abstract; [0033], [0050]-

[0054]).

the assessment of the response times forms an assessment of whether the one or more

responses were immediately available, or whether the one or more responses were a result of a

determination: (the interval timer starts calculating time intervals for the incoming password

attempt by comparison with the time intervals that are predetermined and incorporated into the

stored password, and computing access authorization based upon stored time intervals associated

with time interval received from access request: Pritchard, [0010]; [0033]; [0050]-[0054]).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine Pritchard's ideas access request authorization based upon

assessment of response times into Sheymov's system in order to provide a secure communication

system (e.g. hacker proof protection of an online communication network) (see, Pritchard,

[0008]).

However, Sheymov-Pritchard does not explicitly disclose a request for access to

randomly selected source information from the unknown second source.

In analogous art, Giacalone discloses method of randomly selecting content to be played

on schedule, see (Giacalone, [0059]-[0060])

Thus, it would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine Giacalone's ideas of randomly selecting content to be played on

schedule into Sheymov-Pritchard's system in order to increase conveniences for system's users

(see, Giacalone, [0008]).

Regarding claim 7:

Sheymov discloses the invention substantially as claimed, including processing system

comprising:

a verifier, operably coupled to the renderer, for determining an authorization to process

protected material: (monitoring center verifies unauthorized access attempts: Sheymov, column

4, lines 1-14; column 7, lines 39-67; figure 2, item 200).

the renderer being configured to preclude the rendering corresponding to the select data

item in dependence upon whether other data items of the plurality of data items are available to

the renderer: (when an unauthorized access attempt is detected, the access data packet will be

defended. It is essential to understand at least one render should be built within Sheymov's

system and used to process access requests when the requests is allowed/or denied: Sheymov,

column 2, lines 64-67).

However, Sheymov does not explicitly disclose determining authorization based on an

assessment of actual response times associated with one or more responses received from an

unknown second source to one or more requests issued from a first source to the unknown

second source.

In analogous art, Pritchard discloses computer access requests authorized based upon

stored predetermined time intervals. Authorization of access request is determined based on

assessments of access request time interval against the stored predetermined time intervals; see

(Pritchard, figure 3, items 308, 311, 312, 304; abstract; [0033], [0050]-[0054]).

timer, operably coupled to the verifier and the renderer, for measuring actual response

times associated with responses to requests for the other data items from the renderer: (interval

timer controlled by password software. The interval timer starts calculating time intervals for the

incoming password attempt by comparison with the time intervals that are predetermined and

incorporated into the stored password. If there is match between time intervals of coming

password and time intervals of stored passwords, then access is allowed. Otherwise, access is

denied: Pritchard, [0010]; [0033]-[0034]; [0037]; [0050]-[0054]).

the verifier precludes the rendering based at least in part on an assessment of the response

times: (if there is no match between time intervals of coming password and time intervals of

stored passwords, then access is denied: Pritchard, [0010]; [0033]-[0034]; [0037]; [0050]-

[0054]).

continuously requesting selected source information from the unknown source unit a

statistically significant difference from the expected response time of a local source is detected:

(when the time interval of access request matches with stored predetermined time intervals,

access allow: Pritchard, figure 3, items 312, 314, 316, 318, 320; abstract; [0033], [0050]-[0054]).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine Pritchard's ideas access request authorization based upon

assessment of response times into Sheymov's system in order to provide a secure communication

system (e.g. hacker proof protection of an online communication network) (see, Pritchard,

[0008]).

However, Sheymov-Pritchard does not explicitly disclose requesting for access to

randomly selected source information from the unknown second source.

In analogous art, Giacalone discloses method of randomly selecting content to be played

on schedule, see (Giacalone, [0059]-[0060]).

a renderer for receiving a plurality of data items corresponding to a data set, and for

producing therefrom a rendering corresponding to a select data item: (selected contents to will be

played on the schedule: Giacalone, [0059]-[0060]).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the

invention was made to combine Giacalone's ideas of randomly selecting content to be played on

schedule into Sheymov-Pritchard's system in order to increase conveniences for system's users

(see, Giacalone, [0008]).

Regarding claim 10:

In addition to rejection in claim 7, Sheymov-Pritchard Giacalone further discloses

configuring to randomly select the other data items: (randomly selecting content to be played on

schedule: Giacalone, [0059]-[0060]).

Regarding claim 9:

In addition to rejection in claim 7, Sheymov-Pritchard-Giacalone further discloses form

the assessment based on at least one of: an average of the response times, a comparison of the

response times to one or more threshold times, and a statistical test based on the response times:

(the interval timer starts calculating time intervals for the incoming password attempt for

comparison with the time intervals that are predetermined and incorporated into the stored

password: Pritchard, [0010]; [0033]-[0034]; [0037]; [0050]-[0054]).

Claim 8 is rejected under 35 U.S.C 103(a) as being un-patentable over Sheymov-

Pritchard-Giacalone in view of Bridge (U.S. 7,412,594)

Regarding claim 8:

Sheymov-Pritchard-Giacalone discloses the invention substantially as disclosed in claim

7, but does not explicitly teach response times corresponds to determination of whether the other

data items are located in physical proximity to a renderer.

In analogous art, Bridge discloses associations between object response times and physical proximities of objects, see (Bridge, column 1, lines 38-48).

Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Bridge's ideas of associations between object response times and physical proximities of objects into Sheymov-Pritchard-Giacalone's system in order to save resources and development time by implying Bridge's ideas into Sheymov-Pritchard-Giacalone's system.

Conclusions

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAN-DAI Thi TRUONG whose telephone number is (571)272-7959. The examiner can normally be reached on Monday- Friday from 6:30am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on 571-272-6967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patent Examiner
/Lan-Dai Thi Truong/
Examiner, Art Unit 2452
03/26/2011.